

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TENNESSEE

AT CHATTANOOGA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT R. DOGGART,

Defendant.

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1:15-CR-39

Chattanooga, Tennessee
May 6, 2015

BEFORE: THE HONORABLE SUSAN K. LEE,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

PERRY H. PIPER,
Assistant United States Attorney
1110 Market Street, Suite 515
Chattanooga, Tennessee 37402

FOR THE DEFENDANT:

BRYAN H. HOSS
JANIE PARKS VARNELL
850 Fort Wood Street
Chattanooga, Tennessee 37403

INITIAL APPEARANCE/DETENTION HEARING

UNITED STATES DISTRICT COURT

DEFENDANT'S EXHIBIT

1 Photos of diplomas, certificates, and awards 13

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THE COURT: Call the case, please.

THE COURTROOM DEPUTY: Case Number 1:15-CR-39, USA
versus Doggart.

THE COURT: Counsel, make appearances, please.

MR. PIPER: Perry Piper for the United States, Your Honor.

MR. HOSS: Bryan Hoss and Janie Varnell for
Mr. Doggart, Your Honor.

THE COURT: Mr. Doggart, you're here today because a bill of information has been filed in your case. And this is an open court proceeding.

Is the government prepared to unseal the bill of information?

MR. PIPER: I am not, Your Honor. I did not know that was going to be an issue today. I think the factors that were in place previously were still -- are still in place today.

(Brief pause.)

THE COURT: Well, as is -- was noted at the last public hearing that we had, the Court's going to be reviewing

1 the bill of information in a public proceeding. I'm not
2 certain what justifies keeping the bill of information under
3 seal, but I'll let you address it further at the -- at an
4 appropriate time --

5 MR. PIPER: Thank you, Your Honor.

6 THE COURT: -- but, yes, it is at issue today.

7 Mr. Hoss, what's Mr. Doggart's position on whether
8 or not the bill of information should remain sealed?

9 MR. HOSS: We have no objection to it remaining
10 sealed, Your Honor.

11 THE COURT: I believe that the last time Mr. Piper
12 indicated that there was an ongoing investigation and that was
13 the reason for the need for the bill of information to -- which
14 at the time was a complaint, I guess, with different charges.

15 MR. HOSS: That's correct.

16 THE COURT: Do you have any information about that,
17 or are you relying on Mr. Piper?

18 MR. HOSS: I'm relying on Mr. Piper, but my
19 understanding is, it is still an ongoing investigation.

20 THE COURT: I don't -- I don't doubt -- I'm just
21 trying to see if you have any other basis other than the
22 government's justification.

23 MR. HOSS: No new basis, Your Honor.

24 THE COURT: Or any additional basis.

25 MR. HOSS: No additional. No additional basis.

1 THE COURT: All right. So, from Mr. Doggart's
2 perspective, there's no basis for sealing the bill of
3 information?

4 MR. HOSS: There is no new basis to seal or
5 additional basis, Your Honor.

6 THE COURT: Maybe it's semantics, but I want to
7 understand.

8 MR. HOSS: All right.

9 THE COURT: I didn't understand Mr. Doggart ever had
10 a basis for sealing it. It was always the government's basis.
11 And when you say "no new basis," I want to see whether
12 Mr. Doggart has any basis for sealing the record, or is it
13 simply the government's basis that I need to address?

14 MR. HOSS: It is simply the government's basis that
15 you need to address. But we have no objection to the
16 government's position of sealing.

17 THE COURT: I understood that.

18 MR. HOSS: Okay.

19 THE COURT: And, Mr. Doggart, this is an arraignment
20 being held on the bill of information. When I last saw you,
21 the Court addressed with you the complaint that had been filed
22 in your case, and a hearing was held with respect to the issue
23 of detention. And actually the way I recall it was, I think
24 Judge Carter held a proceeding, and then I held a detention
25 proceeding. But, in any event, you've had two proceedings

1 related to a complaint. Since that time a bill of information
2 has been filed. The bill of information is not identical to
3 the complaint, and so I'll review that with you, and then I'll
4 address any further matters that come up as a result.

5 Now, the constitutional rights that you've been
6 informed of previously apply. You have the right to remain
7 silent. Anything you say can be used against you in this or
8 further proceedings. The-- Of course you're here represented
9 by your appointed attorneys. The only information I intend to
10 ask you today relates to your understanding of the
11 information. So I won't be asking you anything about the
12 merits; and if you think I am, before you answer, you should
13 consult with your lawyers.

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. If you'll raise your right
16 hand, you'll be sworn in.

17 (The defendant was duly sworn.)

18 THE COURT: All right. Mr. Doggart, have you been
19 provided with a copy of the bill of information?

20 THE DEFENDANT: Yes, ma'am. It's right here. First
21 time I've seen it. Yes, ma'am.

22 (Off-the-record discussion.)

23 THE DEFENDANT: Yes. We looked at it, a previous
24 draft of what I see here before me, yes, ma'am.

25 THE COURT: All right. It's a one-count bill of

1 information, and it charges you with interstate communication
2 of threats. Do you understand the charge pending against you?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: All right. Mr. Piper is going to now
5 give you information. That information that he's going to give
6 you is going to be, Number 1, what is the potential penalty if
7 you were to be convicted as currently charged. He's also going
8 to tell you what the government's position is about continuing
9 to detain you given this -- given this charge. And then we'll
10 address matters further.

11 THE DEFENDANT: Yes, ma'am.

12 MR. PIPER: Thank you, Your Honor. On the one-count
13 bill of information the penalty is as follows: There is no
14 mandatory minimum. It's up to 5 years in prison, is the
15 statutory maximum, up to a 250,000-dollar fine, up to 3 years
16 of supervised release. The government is still seeking
17 detention in this case, Your Honor. And the rebuttable
18 presumption is not triggered, and I can state that definitively
19 because it was -- even though it was a crime of violence, it
20 would have to be up to ten years.

21 THE COURT: All right. And we had an issue about
22 that last time. And I understand your current position. But
23 it is your position that the interstate communication of a
24 threat is a crime of violence and therefore detention becomes
25 at issue under 3142(f)(1). Is that correct?

1 MR. PIPER: Yes, ma'am.

2 THE COURT: Mr. Hoss, do you agree?

3 MR. HOSS: I do.

4 THE COURT: All right. So the government is seeking
5 to detain your client. And we had a hearing at a time when
6 there were more extensive charges, and there was an issue about
7 mental health treatment that was undefined. Is Mr. Doggart
8 seeking to introduce any additional evidence for the Court to
9 consider? Because the Court has instructed the pretrial
10 service officer to look at some mental health treatments that
11 might be available, and, given the nature of the current
12 charges, believes that it might be appropriate to consider
13 conditions of release.

14 MR. HOSS: If I can be heard by way of proffer, Your
15 Honor, we do have some additional information.

16 THE COURT: All right. We'll address that in a few
17 moments. Let's make sure that there's nothing else that needs
18 to be addressed first.

19 MR. HOSS: All right.

20 THE COURT: Mr. Doggart, did you understand the
21 penalty information?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right. Now, I don't have a date that
24 I can give you for further proceedings, because I believe that
25 Judge Collier has issued an order asking for briefs on whether

1 or not, just to simplify it, there's a true threat charged. Is
2 that correct?

3 MR. PIPER: That is correct, Judge.

4 THE COURT: All right. So at this point I can't give
5 you a schedule. I do understand that you have submitted a plea
6 agreement that you would like the Court to consider. But the
7 consideration of that plea agreement will be delayed pending
8 the briefing.

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: You have, by the filing of the plea
11 agreement, indicated to the court that you want to plead guilty
12 to this charge, and so at an appropriate time the Court will
13 address that further with you. And I have no dates that I can
14 give you for proceeding beyond that. Is there anything else
15 that we need to address other than the sealing and the
16 detention issues?

17 MR. HOSS: No, Your Honor.

18 THE COURT: All right. What do you want to proffer,
19 Mr. Hoss?

20 You can sit down, Ms. Varnell, and -- unless you're
21 making the proffer.

22 And, Mr. Doggart, you can as well.

23 THE DEFENDANT: Thank you.

24 MR. HOSS: The Court may recall that Mr. Doggart was
25 receiving Social Security disability. And I believe I

1 mentioned that the family had obtained a file of all of his
2 paperwork from that application.

3 THE COURT: Let me-- What I recall is that no one
4 could tell me what was the basis of the disability, at the
5 time, other than just kind of a general both physical and maybe
6 some anxiety. But am I remembering that correctly?

7 MR. HOSS: It was what they -- what Social Security
8 calls a combination of reasons, which includes physical and
9 mental. The physical, Your Honor, is essentially in the form
10 of fibromyalgia, chronic low back pain. He's had rotator cuff
11 surgeries. He was living in a general state of pain that he
12 rated anywhere from seven and a half to ten on a daily basis.
13 The mental side of things, which I think the Court's bigger
14 question was, we found in the Social Security disability
15 paperwork a reference calling it a personality disorder. And
16 just to read, it says, "The information shows--" This is from
17 the Social Security Administration to Mr. Doggart. "The
18 information shows that you had a heart disorder, a breathing
19 disorder, arthritis, depression, and a personality disorder.
20 Your mental condition was determined to be severe, therefore
21 you are unable to work and your claim was allowed." And so it
22 talks about essentially two conditions, depression and a
23 personality disorder, and calls them both severe. So that, I
24 think, at least sheds a little bit more light on the mental
25 side of that. If the Court wants to see that paperwork, I can

1 share that with --

2 THE COURT: Have you shared it with the government?

3 MR. HOSS: I have not.

4 MR. PIPER: He told me about it when we were out in
5 the hallway, Your Honor, when I came in.

6 MR. HOSS: There you go. (Indicating.)

7 (Off-the-record discussion.)

8 MR. HOSS: We also provided to the government, Your
9 Honor -- and this actually goes a little bit about -- goes more
10 to his background, if you will, and not necessarily his
11 disabilities, but we have various certificates, diplomas,
12 awards, that Mr. Doggart has received, especially over the last
13 15 years, in a variety of different capacities. And I've got
14 color photographs. I've given a copy to the government. But
15 if I can pass those up to the Court as well.

16 THE COURT: If you've provided it to the government
17 first.

18 MR. PIPER: He has, Your Honor.

19 THE COURT: All right.

20 MR. HOSS: Just to describe, I think, the
21 certificates to the Court, Your Honor, my client went to
22 La Salle University and obtained his master's and his Ph.D. He
23 was sent there by TVA. TVA actually paid for his education and
24 paid for his ability to get those two -- those two higher
25 education degrees. But he essentially worked as -- in the '70s

1 and '80s and taught himself quite a bit about electrical
2 engineering, worked at naval bases, worked on subs, and started
3 his college career in the late '80s, early '90s, when he
4 ultimately received his associate's and then his bachelor's
5 degree in applied sciences, and then later in the '90s received
6 his master's and his Ph.D. There is a certificate in here from
7 the American Society of Quality Control, dated December of
8 1980, showing that he's a quality engineer. There is his
9 Thomas Edison State College, Bachelor of Science in Applied
10 Science degree. There is the American Society for
11 Nondestructive Testing. What he essentially does, Your Honor,
12 is, he inspects welding and welds and --

13 THE COURT: What's this gavel one? You skipped over
14 it.

15 MR. HOSS: It said "President," which is a great --
16 which is a great title.

17 THE COURT: Ironical, given that the last hearing we
18 had some evidence of his running for President. So, tell me
19 what this is related to.

20 MR. HOSS: In the top corner there is an ASNT,
21 American Society for Nondestructive Testing. He was the
22 president of that organization.

23 THE COURT: Oh, okay.

24 MR. HOSS: The next page is the same organization,
25 just a certificate of appreciation about his time on the board.

1 Same -- next page is his position as a director in that same
2 ASNT organization. That's Page --

3 THE COURT: You know, I looked through them. I
4 mean --

5 MR. HOSS: Sure.

6 THE COURT: -- the last time we discussed this, he --
7 apparently he was a model citizen in a sense, right? Never
8 been arrested, to my knowledge, as I recall.

9 MR. HOSS: That's correct.

10 THE COURT: Educated. Worked at TVA. There's, I
11 guess, some issue maybe about the circumstances of his firing.

12 MR. HOSS: That's correct.

13 THE COURT: And I think the question was, though, is
14 he currently a danger.

15 MR. HOSS: To-- Correct. And we had him evaluated
16 yesterday by a private psychologist.

17 THE COURT: Okay. That is of great interest to me.

18 MR. HOSS: Sure.

19 THE COURT: But I want to see the Social Security
20 paperwork before you get into that.

21 MR. HOSS: Okay. Fine.

22 THE COURT: And Mr. Piper, I think, is maybe still
23 looking at that. And I'm not -- I'm not trying to cut you off
24 on the certificates.

25 MR. HOSS: Sure. I understand.

1 THE COURT: It's just that this is proof of what you
2 proffered last time. Do you want me to put these in the
3 record, these certificates, as a collective exhibit?

4 MR. HOSS: We can, Your Honor.

5 THE COURT: All right. They'll be Collective Exhibit
6 1 without objection.

7 (Defendant's Collective Exhibit 1 was received into
8 evidence.)

9 (Brief pause.)

10 THE COURT: Okay. On the Social Security records, do
11 I have them all?

12 MR. HOSS: You have the two that we referenced, yes,
13 Your Honor.

14 THE COURT: All right.

15 MR. HOSS: That's not all. That's not all of them,
16 but, yes.

17 THE COURT: There was a report of a consultive exam.
18 The request for reinstatement of Social Security seems to
19 indicate that he was denied it.

20 MR. HOSS: He was denied it, he appealed it, and then
21 he got it.

22 THE COURT: Do you have any documentation of where
23 he --

24 MR. HOSS: Here is his appeal. This is his
25 application in response to that last letter from them.

1 That's-- The letter that you have --

2 THE COURT: I'm really familiar with Social Security.

3 MR. HOSS: Well, you're --

4 THE COURT: But what I don't understand is, I thought
5 you were giving me documentation that he was --

6 MR. HOSS: Awarded.

7 THE COURT: -- found to be disabled. And that's not
8 what you've handed me.

9 MR. HOSS: He was found to be disabled. That's not
10 what I've handed you, because in the document that shows he was
11 found to be disabled, we don't have any discussion about the
12 personality disorder or the specific mental health conditions
13 that led to that.

14 THE COURT: So you're proffering that upon his appeal
15 he was awarded both physical and mental disability, combined.

16 MR. HOSS: He was awarded benefits based upon a
17 combination of factors, and those factors were physical and
18 mental conditions.

19 THE COURT: And as I indicated to you previously,
20 mental disability is a two-edged sword on a -- in a detention
21 hearing.

22 MR. HOSS: So is telling the Court about the
23 psychologist who saw your client yesterday, Your Honor.

24 THE COURT: Yeah. The reinstatement indicates that
25 although he experienced depression and a personality disorder,

1 he was able to communicate with others, act in his own
2 interest, and perform most ordinary activities. So if you have
3 any information --

4 MR. HOSS: We have his response where he addresses
5 all of that, and I can provide that if the Court wants to see
6 that. Mr. Doggart typed out a response that is extremely
7 detailed.

8 THE COURT: I'm not asking you to submit it but --

9 MR. HOSS: Okay.

10 THE COURT: -- because I'm not going to tell you what
11 you should and shouldn't submit. And I think maybe -- maybe if
12 you tell me what you want to tell me about the evaluation
13 yesterday, it might answer my questions.

14 MR. HOSS: Sure.

15 THE COURT: Do you want this in the record, the
16 Social Security paperwork --

17 MR. HOSS: We don't have to make that a copy, Your
18 Honor. We don't have to make that --

19 THE COURT: -- in the record?

20 Mr. Piper, are you requesting it?

21 MR. PIPER: (Moving head from side to side.)

22 THE COURT: All right. Return that, please.

23 MR. HOSS: Dr. Kimberly Brown, Your Honor, is a
24 psychologist from Vanderbilt. We've actually used her in this
25 courthouse before on a CJA case. The Court mentioned that we

1 were appointed counsel. We're actually retained counsel in
2 this case. And Ms. Brown, we retained her to come down and do
3 an evaluation. All she has done at this point is reviewed some
4 of the discovery materials provided by Mr. Piper and
5 interviewed Mr. Doggart. It's too soon for her to give a
6 diagnosis. She is seeking -- and there's quite a bit of mental
7 health records that are still out there from other treating
8 folks here in Chattanooga. Behavioral Health is one of them.
9 Lee Solomon is another. But she's waiting to get those
10 additional records. She is not evaluating him for competency.
11 She is evaluating him to see what -- what conditions led to
12 where he is today. In essence, she is here for mitigation at
13 sentencing. That's the purpose that she is involved in this
14 case. But --

15 THE COURT: Right. And for the record, neither side
16 took the position that Mr. Doggart was in any way incompetent.

17 MR. HOSS: Correct.

18 THE COURT: Okay.

19 MR. PIPER: Judge, I'm not sure that's true. I
20 don't-- I'm not trying to interrupt the Court. The Court
21 asked me --

22 THE COURT: Well, Mr. Piper, right. Let me rephrase
23 it, then. The Court asked if the government was taking the
24 position that he was incompetent or that he should be
25 evaluated, and you responded that you weren't, the Court could

1 or the defendant could, sua sponte, but that you were not at
2 the time.

3 MR. PIPER: The Court asked me if I had questions
4 concerning Mr. Doggart's competence, and my answer was yes.

5 THE COURT: Well, you have not moved for an
6 evaluation --

7 MR. PIPER: No. I just --

8 THE COURT: -- nor have you taken the position that
9 he is incompetent. Is that correct?

10 MR. PIPER: That has -- that issue is not before the
11 Court at this point, in my opinion, Your Honor.

12 THE COURT: It might be, if it was a factor in
13 determining whether or not he can be released on conditions.
14 So, if the government is not prepared at this point to take a
15 position, that's fine.

16 MR. PIPER: And that's the way I'd prefer to say it,
17 Judge.

18 THE COURT: That's fine.

19 Go on, Mr. Hoss.

20 MR. HOSS: So she has essentially interviewed
21 Mr. Doggart. Her next steps in this case are reviewing the
22 additional medical information and interviewing family members.

23 After she met with him yesterday—I believe they met
24 for over four or five hours, Your Honor—I spoke with her for
25 about 15 minutes, 20 minutes on the phone. And so what I'm

1 proffering to the court is essentially what our conversation
2 consisted of. She has a conflict today at 2:00. I asked if
3 she would be available because I thought the Court may want to
4 call her and talk to her. But she did have a conflict. She
5 is available later on in the week if the Court did want to
6 talk to her. She said that she did not believe that he was
7 any threat of harm to himself. She said that he at this stage
8 was not a good candidate for in-patient treatment but he is a
9 good candidate for out-patient treatment.

10 When I first went to see Mr. Doggart, the first
11 three or four times that I met with him, Mr. Doggart, the
12 Court will recall, was taking hydrocodone and Xanax, and he
13 was clearly suffering from withdrawals from those two drugs.
14 And these are lawful prescription medications written to him.
15 He was clearly suffering from those withdrawals. And it was
16 Dr. Brown who told me to notify the jail that he was suffering
17 potentially from tremors, DTs. And I called the nurse at the
18 jail, informed her of that, and they kind of stepped up their
19 monitoring of Mr. Doggart.

20 As he appears today and as you can talk to him
21 today, it is very different than the first ten days that he
22 was in custody. And so I think there is a component there of
23 coming off of these medications, of the hydrocodone and the
24 Xanax, but I think that he can be treated on an out-patient
25 basis because of that. Outside of that, Your Honor, she --

1 she's still preparing her report. She can't give any opinions
2 about whether he's a threat of harm to the public. She can't
3 give any opinions about, you know, whether he's a risk of
4 flight and is going to take off going somewhere. It's way too
5 early to do that. But as far as whether he's a threat of harm
6 to himself, the answer's no. As to whether or not she
7 believes he needs in-patient treatment at this juncture, I
8 asked her that directly, and she said no but he would benefit
9 greatly from some type of out- -- out-patient therapy program.
10 So I think there is a combination of conditions that the Court
11 can fashion that gives him that.

12 He is prepared, Your Honor, if the Court thinks it's
13 necessary, to wear an ankle bracelet, obviously to undergo
14 any --

15 THE COURT: Well, let's finish the proffer --

16 MR. HOSS: Sure, sure.

17 THE COURT: -- and then, you know, we'll have time
18 for argument. Is that the end of your proffer?

19 MR. HOSS: It is. That's all I have, Your Honor.

20 THE COURT: All right.

21 Is the government presenting any additional evidence
22 today?

23 MR. PIPER: No, Your Honor. Thank you.

24 THE COURT: All right. We'll have argument, unless
25 you want to waive it.

1 MR. HOSS: Just -- just -- there is a combination of
2 conditions, and Mr. Doggart and I have talked about them
3 extensively. If the Court were to release him, he would go
4 back to his house, if the Court would allow this, but he would
5 go back to his house on Signal Mountain, where the agents have
6 searched, have recovered any and all weapons that are at his
7 house.

8 THE COURT: So it's your understanding that the
9 agents confiscated the firearms?

10 MR. HOSS: They not only confiscated the firearms,
11 even after the fact we made sure they got guns out of another
12 car of his that was left at a different location, but, yes.

13 THE COURT: And are you proffering to the Court that
14 there's no other weapons available to him in a car, in a home?

15 MR. HOSS: I'm proffering to the Court the best I can
16 proffer to the Court. As far as his family, he's got two
17 daughters, Your Honor, and a son-in-law who are present in the
18 courtroom. They've been inside his house after the FBI agents
19 have been there, and they've searched through his house. And
20 what they report to me is, there's no weapons remaining in
21 that -- in that house.

22 But he would go back, if the Court believed that an
23 ankle bracelet would be beneficial in this situation,
24 Mr. Doggart has no objection to an ankle bracelet. He has no
25 objection to a curfew if the Court believed that was

1 necessary. He has no objection to alcohol and drug counseling
2 or treatment, and certainly would agree to any mental health
3 treatment as well. And if he went to -- if he goes to-- For
4 example, he went to Behavioral Health, where he has a previous
5 relation to, and they say, "We think you need to go
6 in-patient," he has no objection to doing that, to following
7 whatever they require of him in that process. That's what
8 we'd ask for. Thank you.

9 THE COURT: Do you want to make argument, Mr. Piper?

10 MR. PIPER: Briefly, Your Honor. I think Mr. Hoss
11 has done an excellent job, as always. And I would say, in
12 Mr. Doggart's favor, he has wonderful family support. And they
13 -- all of his children have been by him, I think, throughout
14 the entire time that this case has been pending.

15 Having said that, Your Honor, it's the government's
16 position, including the U.S. Attorney's Office and the FBI's,
17 that Mr. Doggart's threats were very specific and they were
18 very dangerous. He threatened to kill people. He threatened
19 to travel to New York. He took affirmative steps in order to
20 do that, as I think the Court is aware.

21 THE COURT: Well, and let me just say on that,
22 because I think Judge Collier has asked for some information
23 about whether these constitute threats for purposes of entering
24 a plea, but, you know, for the bill of information and for the
25 decision I'm making today, the Court certainly recalls the

1 communications that it is that you contend are true threats.

2 MR. PIPER: (Moving head up and down.)

3 THE COURT: So I am aware of that, but I'm not --
4 just for everybody to know, I'm not making a decision whether
5 those constitute true threats under the law. Go on.

6 MR. PIPER: Thank you, Your Honor. And we just think
7 that under 3142, that the defendant is, by clear and convincing
8 evidence, a danger to the community.

9 THE COURT: And you do acknowledge that that's your
10 burden under the bill of information, given that the -- we did
11 have that other issue before.

12 MR. PIPER: Unquestionably, Your Honor. And
13 previously when Mr. Hoss and I and Ms. Varnell were in here the
14 last time, I did not rely upon the rebuttable presumption, as
15 the Court may recall.

16 THE COURT: Yes. And I noted that in my decision,
17 and noted that the basis for my detaining him at the time was
18 the undefined mental health and drug -- substance abuse issues
19 that I felt needed to be clarified.

20 MR. PIPER: And to this day, Your Honor, I don't
21 believe those issues have been clarified. I do believe that
22 the defendant is properly characterized as a danger to the
23 community, based upon these very specific threats. The actions
24 that the defendant took in order to carry out or at least plan
25 this attack were very specific. He drove to Nashville. He

1 drove to South Carolina, even though he did not see the
2 gentleman in South Carolina. The day before he was arrested,
3 he called him. It was an intercepted call. I believe he had
4 been over to see his daughter and grandchildren near
5 Greenville, South Carolina, did not meet with the gentleman,
6 but he did in fact carry firearms with him to South Carolina,
7 he carried firearms with him to Nashville, to -- and showed
8 those to the cooperating individual. He talked about using a
9 Molotov cocktail. And worse, Your Honor, he talked about
10 obtaining some type of destructive device.

11 THE COURT: But can you -- can you point me to a
12 violent or criminal act that he has taken in his past? I
13 understand the allegations pertaining to the bill of
14 information.

15 MR. PIPER: Uh-huh.

16 THE COURT: I'm asking, does he have any history of
17 violence towards people of the Muslim faith, or really any
18 group, that you're aware of? The pretrial service report seems
19 to indicate no criminal history whatsoever. But are you aware
20 of any -- any actions by him beyond what you've brought to the
21 Court's attention through the complaint, which now you're
22 pursuing a portion of in a bill of information; in other words,
23 any other incident?

24 MR. PIPER: Other than the investigation, I have
25 nothing, Your Honor. But the investigation is extensive.

1 There were at least 140 pertinent calls, there were Facebook
2 postings --

3 THE COURT: Right. I recall all that.

4 MR. PIPER: -- on and on.

5 THE COURT: I just wanted to know if you had any
6 evidence of any actions other than as alleged in this current
7 bill of information.

8 MR. PIPER: I do not, Your Honor. I will say,
9 though, that the defendant -- whatever was the cause of his
10 mental health issues and his separation from TVA, this has been
11 an ongoing matter for some time.

12 THE COURT: And his ex-wife seems to indicate he has
13 a drinking problem and that he was maybe drinking when driving
14 or something. Do you recall that? I don't recall it having
15 anything at all to do with any kind of threat or -- which is
16 why I'm asking you.

17 MR. PIPER: No, I don't.

18 THE COURT: Is there information it related to some
19 kind of threat on --

20 MR. PIPER: Well, the ex-wife, I think, Your Honor,
21 had relayed information to the FBI, which is one of the reasons
22 the investigation got started. And I think her concern was
23 that the defendant had become more aggressive in his speech and
24 in his -- and more specific in his goals. And I think that's
25 the reason why she reached out to the FBI. And I do believe

1 that's the reason the FBI began investigating, Your Honor, one
2 of the reasons.

3 THE COURT: Okay. You heard what Mr. Hoss thought
4 would be appropriate conditions for release. Do you want to
5 address that, other than that you don't think that he should be
6 released?

7 MR. PIPER: I do not believe he should be released,
8 Your Honor. I don't believe there's any condition or
9 combination of conditions which would assure the Court that the
10 defendant is not a danger to the community. I believe we've
11 carried that by clear and convincing evidence. It's my hope
12 and goal, and of course this will always be left to somebody
13 wearing a black robe, but that the defendant get some mental
14 health treatment, get his life back in order. He's got good
15 family support. I just respectfully submit to the Court that
16 that time is not now, Your Honor.

17 THE COURT: All right. Thank you for your argument.

18 MR. HOSS: Your Honor, may I respond just real
19 briefly?

20 THE COURT: Yes.

21 MR. HOSS: I believe in the pretrial services
22 report—and Mr. Piper will correct me if I'm wrong—that the
23 ex-wife said she had no communication with Mr. Doggart for the
24 five years before this, they had literally not spoken with each
25 other for those -- I just don't want the Court to think

1 Mr. Doggart was somehow threatening his ex-wife, because I
2 don't think that's true.

3 THE COURT: Well, why don't you look at the pretrial
4 service report and point me to the portion you want me to
5 remind myself of.

6 (Brief pause.)

7 THE COURT: The-- I don't know if you're referring
8 to Page 4, second paragraph, or if it's something else. I
9 don't-- In Page 4 she says she "heard from other people,"
10 whatever that means. But is there somewhere in here that she
11 says that she hasn't spoken to him in five years?

12 (Brief pause.)

13 MR. PIPER: Judge, that is true. The ex-wife --
14 they've been divorced ten years, and she told the FBI she
15 hasn't spoken to him in five years, she received this
16 information from others.

17 THE COURT: Which is not defined in the pretrial
18 service report. And I don't see that five years, but it seems
19 like everybody's in agreement it's been five years. So that --

20 MR. PIPER: That -- well, she received the
21 information not five years ago, though, Judge.

22 THE COURT: Right. She heard from, quote, "others --

23 MR. PIPER: Yes, that's correct.

24 THE COURT: "-- that he takes a lot of painkillers
25 and that his mental stability may be --" actually it doesn't

1 say it; it says, "Mr. Doggart's ex-wife stated that the
2 defendant is an alcoholic, and that his mental stability
3 worsened over the years the more he drank alcohol. She stated
4 that she also heard from other people that he takes a lot of
5 painkillers."

6 MR. HOSS: What ex-wives say about ex-husbands five
7 years later, Your Honor, is dangerous territory to base any
8 man's liberty on, but --

9 THE COURT: Well, I've given both sides an
10 opportunity to present whatever evidence they want me to
11 consider.

12 MR. HOSS: You have it. And I think the truth is,
13 Mr. Doggart, Your Honor, was taking his prescribed medications,
14 he was -- and he suffered some serious withdrawals from when
15 those stopped, which probably shows the Court that he was quite
16 dependent on those medications.

17 THE COURT: Well, exactly what time period are you
18 contending he stopped taking these painkillers?

19 MR. HOSS: At the Hamilton County Jail when I --

20 THE COURT: So after all of the recorded
21 conversations?

22 MR. HOSS: Yes.

23 THE COURT: You're just trying to explain his
24 appearance at the last proceeding, then.

25 MR. HOSS: Well, his appearance at the last

1 proceeding was because the jail had not given him a bath or
2 anything for well over a week. I don't think he had a bath
3 until after 10 or 11 days.

4 THE COURT: I didn't mean his physical appearance. I
5 meant his excessive note-taking and other actions in the
6 hearing, which, again, caused me to be concerned about his
7 mental health well-being. And he does appear to be better
8 today if by that you mean he appears to be calmer.

9 MR. HOSS: And in my dealings with him, Your Honor,
10 he's changed dramatically. But he still needs help. And if
11 you ask his family, his daughters, his son-in-law, they would
12 say -- they would ask the Court for alcohol and drug treatment
13 and mental health treatment.

14 THE COURT: Are any of them willing to be third-party
15 custodian of him?

16 MR. HOSS: I don't know, Your Honor.

17 THE COURT: Well, we'll take a break. You can ask
18 them.

19 MR. HOSS: I can talk to them.

20 THE COURT: I'll talk to the pretrial service
21 officer, and we'll reconvene in about five minutes.

22 MR. HOSS: And by "third-party custodian," you're
23 asking can he move in with them?

24 THE COURT: There's two kinds of third-party
25 custodian. One -- one is a third-party custodian that lives

1 nearby and is responsible for reporting to the Court any
2 violations, et cetera.

3 MR. HOSS: Sure.

4 THE COURT: Sometimes defendants do reside in the
5 residence with the third-party custodian, and sometimes they
6 don't.

7 MR. HOSS: Sure.

8 THE COURT: So I don't -- I don't know what you would
9 want to proffer to me.

10 MR. HOSS: I'll be happy to talk to them.

11 THE COURT: I merely was asking you whether any of
12 the responsible children that you have said support him are
13 willing to be third-party custodians as a possible condition
14 that I can consider.

15 MR. HOSS: Sure.

16 MR. PIPER: Judge, I hope that the Court is not
17 relying solely on the ex-wife's statements to the FBI. We have
18 a report on that, and I can't remember whether Agent Smith
19 specifically addressed it. We had a lengthy hearing last time
20 on the probable cause and detention hearing aspects of this
21 case, pursuant to the complaint and warrant. What the ex-wife
22 said was that she had received information from the others that
23 the defendant was in fact, in her opinion, more dangerous. She
24 did agree that she hadn't spoken to him in five years and they
25 had been divorced for ten years. But that's not really the

1 issue, respectfully, Your Honor. The issue is that when Agent
2 Smith testified, there were a number of areas he addressed with
3 respect to the defendant's --

4 THE COURT: I agree. And I don't need to rehear
5 argument on that.

6 MR. PIPER: Okay. Okay.

7 THE COURT: All right? We'll take the break.

8 MR. HOSS: Thank you, Your Honor.

9 THE COURT: And should five minutes be enough?

10 MR. HOSS: It should. Absolutely.

11 THE COURT: All right. And, Ms. Zwicknagel, I'll see
12 you in chambers, please.

13 (Brief recess.)

14 MR. HOSS: May I, Your Honor?

15 THE COURT: Yes.

16 MR. HOSS: Your Honor, his two daughters, the two
17 that are present today, are Christy Adkins, and she lives in
18 Hixson, Tennessee, with -- she is present with her husband.
19 She has two kids. And then Terry Lee, also present today. She
20 also has two kids. And they are both willing to step in as
21 third-party -- as third-party assistants.

22 THE COURT: It's called third-party custodian. He
23 doesn't have to live with them for them to be legally
24 responsible as a third-party custodian. Hopefully you
25 explained to them that to be a third-party custodian you agree

1 to supervise the defendant, to use every effort to assure the
2 defendant's appearance at all court proceedings, and to notify
3 the Court immediately if the defendant violates a condition of
4 release.

5 MR. HOSS: I did. And we went through some specific
6 scenarios, even. They live approximately 20-- Ms. Adkins
7 lives 20, 25 minutes away from his residence. Ms. Lee lives
8 about 30, 35 minutes away from his residence. Ms. Lee works
9 full time at Unum. Ms. Adkins does not work. So I think they
10 would alternate checking in on him on a regular basis. But
11 they're both willing to do that.

12 THE COURT: All right. And what's -- what's the full
13 name again?

14 MR. HOSS: Sure. It's Christy Adkins, A-D as in dog,
15 K-I-N-S.

16 THE COURT: How do you spell Christy?

17 MR. HOSS: C-H-R-I-S-T-Y.

18 THE COURT: Okay. And who?

19 MR. HOSS: And then Terry Lee, T-E-R-R-Y, and just
20 L-E-E, also of Hixson. And if the Court needs their
21 residential addresses, I have those.

22 THE COURT: They're both in the Chattanooga,
23 Tennessee area, right?

24 MR. HOSS: Hixson, Tennessee. 37343 area code.

25 THE COURT: Okay.

1 (Brief pause.)

2 THE COURT: The Court, I guess, is-- The Court is of
3 the belief that there's not clear and convincing evidence that
4 he's a danger that can't be assessed through appropriate
5 conditions. So I intend to release Mr. Doggart on conditions.

6 MR. PIPER: Judge, may I-- Would the Court give me
7 one opportunity to argue this again, please?

8 THE COURT: No. We've had argument.

9 MR. PIPER: All right. Would I -- may I ask the
10 Court to stay the Court's order so I can appeal this to the
11 district court?

12 THE COURT: You can ask that, but I'm -- I'm going to
13 deny it.

14 MR. PIPER: Your Honor.

15 (Brief pause.)

16 THE COURT: But you can appeal immediately. You
17 can --

18 MR. PIPER: I understand that. But I can't write it
19 immediately. May I ask the Court to stay it pending the close
20 of business today, at least?

21 THE COURT: Well, I don't think that he can be
22 released until the electronic monitoring's in place, which
23 won't be for -- how long?

24 MS. ZWICKNAGEL: Your Honor, Officer Lindsey's out
25 this week, but we do have another officer who can do electronic

1 monitoring. I'm not sure of her availability right now this
2 week.

3 THE COURT: Why don't you find out.

4 But it's my understanding it's going to take a day
5 or two to get the electronic monitoring set up, which should
6 give you plenty of time.

7 Ms. Zwicknagel, if you'll go find out the soonest
8 available connection to electronic monitoring.

9 MS. ZWICKNAGEL: Yes, Your Honor.

10 (Brief pause.)

11 THE COURT: While we're waiting for that, on the
12 issue of waiver of an indictment, given Judge Collier's order,
13 I was not going to have Mr. Doggart waive indictment today. I
14 think that can be addressed at a later time. But I frankly
15 just have not been able to have any conversations with Judge
16 Collier about whether he wants the waiver of indictment
17 addressed before the change of plea hearing. Did either of you
18 get any direction on that when you --

19 MR. PIPER: No, Your Honor.

20 THE COURT: Did you just get-- You got an order?

21 MR. PIPER: That's all we got, Judge.

22 THE COURT: All right. What is you-all's position on
23 waiver of indictment at this point?

24 MR. HOSS: I would -- I would agree with the Court,
25 hold off until the judge rules on the plea agreement.

1 MR. PIPER: The plea agreement has a provision in it,
2 Your Honor, stating that the defendant is specifically waiving
3 the right to be indicted within the time frame specified within
4 18 U.S.C. Section 3161.

5 THE COURT: Is the briefing-- I guess I just want to
6 understand the schedule. So affirmatively for the record
7 you're not asking to address the waiver of indictment at
8 this -- at this point, correct?

9 MR. HOSS: That's correct. That's correct.

10 THE COURT: And it sounds to me like it is within the
11 contemplation of the plea agreement that that be done typically
12 at the same time that he would be entering his plea. So it
13 sounds like it's better to wait and not have the waiver of
14 indictment today.

15 MR. HOSS: I agree, Your Honor.

16 MR. PIPER: That's correct, Judge.

17 THE COURT: Okay. Mr. Piper, you might want to get a
18 copy of the transcripts from both hearings, with respect to
19 your appeal as well, although you don't have to have that to go
20 forward.

21 MR. PIPER: I understand that, Your Honor. Your
22 Honor, can Your Honor give me one minute to make one quick
23 argument on this, please?

24 THE COURT: On -- on the stay?

25 MR. PIPER: No, on the detention issue.

1 THE COURT: I feel like I've -- I've made my ruling
2 and you're wanting to -- to reopen the argument after we have
3 closed argument on that. I'll hear you on the stay.

4 MR. PIPER: No, it's about -- it's about the
5 detention, Judge. And if the Court doesn't want me to argue,
6 that's fine, but... (Indicating.)

7 THE COURT: Is it something you didn't argue before?

8 MR. PIPER: Well, Your Honor, it's only that the--
9 If the Court will not allow me to argue, that's fine, I'm going
10 to sit down and shut up.

11 THE COURT: I'm going to let you make your record.
12 All right?

13 MR. PIPER: Okay.

14 THE COURT: And Mr. Hoss is not objecting to your
15 making your post-ruling argument.

16 MR. PIPER: Judge, we have a complaint and warrant
17 and an affidavit in support of that in place. We had Agent
18 Smith's testimony, which was lengthy. The direct and
19 cross-examination were both lengthy. We set out all these
20 variables. After that happened, after the Court found there
21 was probable cause to -- I think probable cause was waived.
22 The Court found that the defendant should be detained based
23 upon dangerousness to the community. Since that's happened,
24 the defendant has at least tacitly agreed that he has committed
25 an 875(c), an interstate communication of threats. We have a

1 plea agreement that's signed, that's in the record, where the
2 defendant is agreeing that he has committed these acts and in
3 fact that they are, quote, "true threats." That is in fact in
4 the plea agreement. I would think that would inure to the
5 government's advantage as far as the detention issue is
6 concerned, that before the defendant was not acquiescing to
7 anything; after the detention hearing and preliminary hearing,
8 the defendant is now agreeing—at least his signature appears
9 on a plea agreement—that he has committed these acts. Two and
10 a half pages of factual bases are contained in that plea
11 agreement, Judge.

12 The FBI -- and I know the Court doesn't make its
13 decisions based upon what the FBI does or believes, but the
14 FBI had -- and this came out at the hearing, that they had
15 round-the-clock surveillance on the defendant, physical
16 surveillance, in addition to electronic surveillance, in
17 addition to the Title III wiretap. I believe, respectfully,
18 Your Honor, that the position for the government is much
19 stronger now than it was at the detention hearing when the
20 Court originally detained the defendant.

21 THE COURT: And the Court noted in the order that it
22 was the undefined -- based on the continuing nature of the
23 offense shown by the proof and the evidence of undefined but
24 potentially disabling mental health issues and evidence of
25 substance abuse issues that -- that concerned the Court. And I

1 think that I have conditions now that he can be released on.
2 And he hasn't-- I understand that he's signed an agreement.
3 He has not entered a plea. Let me ask you this: Is he subject
4 to mandatory detention upon entering a plea?

5 MR. PIPER: I don't believe so, Your Honor, no.

6 THE COURT: Anyhow, what did you find out,
7 Ms. Zwicknagel?

8 MS. ZWICKNAGEL: Your Honor, we need to find out if
9 he has features on his telephone. If he has a land line
10 telephone, there needs to be no features. If there are no
11 features, they could do it by Friday.

12 THE COURT: By Friday?

13 MS. ZWICKNAGEL: Yes, Your Honor.

14 THE COURT: Mr. Hoss?

15 MR. HOSS: He has no land line telephone, Your Honor.

16 THE COURT: He would have to get one.

17 MS. ZWICKNAGEL: Not --

18 MR. HOSS: Yes, Your Honor.

19 THE COURT: He can't be released until he has one.
20 So somebody would have to take care of getting him one, and it
21 has to be with no features, and then it would have to be hooked
22 up.

23 MS. ATKINS: That's fine.

24 THE COURT: Which the earliest it sounds like it can
25 be done is by Friday.

1 MR. HOSS: They can do that.

2 THE COURT: Maybe they can. Maybe they can't. And
3 you're at the mercy of the telephone company for a land line.

4 MR. HOSS: Sure.

5 THE COURT: So he won't be released until it's in
6 place.

7 MR. HOSS: I understand. I understand.

8 THE COURT: So it's not going to affect the Court's
9 ruling. It gives Mr. Piper more time to get a stay from the
10 district judge or -- or get a ruling from the district judge if
11 he appeals my decision. And it sounds like he will. So, you
12 know, he can pursue either one of those alternative courses of
13 action.

14 MR. HOSS: No, I understand that, Your Honor. And
15 just for purpose of the record, what are the combination of
16 conditions besides --

17 THE COURT: Oh, I'm going to give those all to him.

18 MR. HOSS: Okay. Okay.

19 THE COURT: Mr. Doggart, stand up, please. Do you
20 understand that you're under oath?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: What I'm going to be doing is giving you
23 conditions of release. Your daughters are going to be
24 responsible as custodians. I am going to ask both of them to
25 act as your custodians. Not only will you be putting yourself

1 in a terrible position if you violate any of the conditions
2 that I set, you'll be putting your daughters in a bad position
3 as well. The conditions that are going to apply are that you
4 must not violate any law while you're on release. Things that
5 would not normally bring you into federal court now will bring
6 you into federal court. So that means no federal, state, or
7 local law may be violated.

8 Now, as I -- as I go over these conditions, you're
9 going to have an opportunity to hear them, to understand them.
10 Your lawyer will have a chance to challenge them. But what
11 you're not going to really have a chance to do is to come back
12 and tell me you didn't understand what I required. So make
13 sure that you do understand everything I'm telling you.
14 You'll have to cooperate in DNA sampling.

15 You'll have to advise the Court if you have any
16 change in either your residence or your telephone number,
17 because we'll be depending on you living there and being
18 reachable by phone. You of course will need to stay in
19 contact with your lawyers so that they can advise you of any
20 dates where you need to be present in court. Right now I
21 can't give you a date when you might next appear, because I
22 don't have any dates to give you. And the next time you are
23 going to be required to appear may very well be when Mr. Piper
24 has a hearing, if he gets one, on any sort of appeal. So stay
25 in contact with your lawyers. You of course also have to

1 agree that you're going to surrender for any sentence. You
2 will have to execute a 30,000-dollar bond. That means that
3 you'll forfeit that money if you do not comply with the
4 conditions of your bond.

5 I need Ms. Adkins and Ms. Lee to come forward now.

6 (Brief pause.)

7 THE COURT: You'll need to raise your hands. You'll
8 be sworn in.

9 (The witnesses were duly sworn.)

10 THE COURT: Each of you has offered to serve as the
11 custodian of your father. Is that correct?

12 MS. ATKINS: Yes, ma'am.

13 MS LEE: Yes.

14 THE COURT: And do you understand what that requires?

15 MS. ATKINS: Yes.

16 MS LEE: Yes.

17 THE COURT: In addition to verbally stating that,
18 you'll be required to sign this order where I'm setting these
19 conditions of release. You'll see that you'll need to provide
20 your phone numbers on the line --

21 MS. ATKINS: (Moving head up and down.)

22 MS LEE: (Moving head up and down.)

23 THE COURT: -- and your address. You can just put
24 city and state for your address, but put your phone numbers
25 down. And what you're agreeing to is to supervise your

1 father --

2 MS LEE: (Moving head up and down.)

3 THE COURT: -- to use every effort to assure his
4 appearance at all court proceedings, and to notify the Court
5 immediately if he violates any of the conditions that I'm
6 setting. Are you-- First of all, do you understand that duty?

7 MS. ATKINS: Yes.

8 MS LEE: Yes.

9 THE COURT: And do you understand how hard it would
10 be, that if you found out he has violated a condition of
11 release, that you would have to make that phone call, knowing
12 that it might result in him being placed into custody?

13 MS. ATKINS: Yes.

14 MS LEE: Yes.

15 THE COURT: And are you willing to do that?

16 MS. ATKINS: Yes.

17 MS LEE: Yes, ma'am.

18 THE COURT: All right. If you have any questions
19 about any of the conditions I'm setting, you need to let me
20 know that as well.

21 Mr. Doggart, you'll be reporting to Probation
22 Officer Candace Lindsey. I have a phone number here for you
23 to report to her. You'll be meeting with Ms. Zwicknagel
24 before you-- You may not need to meet with her today. She'll
25 probably give you some reporting instructions. But in all

1 likelihood you won't be released until, the earliest, on
2 Friday. You'll have to surrender your passport to Ms. Lindsey
3 within the time frame. You can't get another passport. You
4 cannot travel outside the Eastern District of Tennessee. That
5 means you can't go to Georgia, you can't go to Alabama, you
6 can't go to Nashville. You need to figure out with Mr. Hoss
7 what the boundaries are for the Eastern District of Tennessee,
8 and you need to stay within them at all times.

9 In addition, you have to avoid all contact, directly
10 or indirectly, with any person who may be a victim or a
11 potential witness in this prosecution. That means any of the
12 people in-- I can't remember the name of the militia.
13 Quad- -- I don't know how it was described. It was described
14 variously. What's the name of the --

15 MR. PIPER: Islamberg, Your Honor?

16 THE COURT: No, the --

17 MR. HOSS: OAF?

18 THE COURT: -- chat group.

19 MR. HOSS: OAF.

20 MR. PIPER: Oh, it's the American Reapers.

21 THE COURT: American Reapers?

22 MR. PIPER: Yes.

23 MR. HOSS: Or OAF?

24 SPECIAL AGENT SMITH: Or OAF. There's --

25 THE COURT: Anyhow, my point being, you can't have

1 contact with any of that chat group. In fact, I'm going to
2 restrict you from the Internet.

3 MR. HOSS: I think that's better, Your Honor.

4 THE COURT: There will be no Internet access.

5 THE DEFENDANT: Right.

6 THE COURT: There will be no opportunity for you to
7 travel to Nashville or Kentucky or any -- Texas, any of the
8 other places that you are factually involved in. All right?

9 THE DEFENDANT: (Moving head up and down.)

10 THE COURT: Basically you're going to end up being
11 restricted to your house. Now, if you talk to them on the
12 telephone, that's a violation.

13 THE DEFENDANT: (Moving head up and down.)

14 THE COURT: If you write some of these people a
15 letter, that's a violation. If you send them a carrier pigeon,
16 that's a violation. No contact, direct or indirect. That
17 means you can't do through a friend what you can't do yourself.

18 You're going to have to undergo psychiatric
19 treatment as determined by the probation office. I'm not sure
20 that your current mitigation expert is -- is at all
21 sufficient. That doesn't sound like treatment to me. So the
22 probation office has a relationship with Joe Johnson and some
23 other providers that I expect that you'll be required to meet
24 with. But you are going to have to undergo psychiatric
25 treatment. And of course no guns, destructive device, or

1 other dangerous weapons.

2 Ms. Adkins and Ms. Lee, it was represented that you
3 have been through the house and there are no guns in the house
4 and the cars. Is that correct?

5 MS LEE: That's correct.

6 MS. ATKINS: That's correct.

7 THE COURT: Are you aware of any other place that
8 your father would store any weapons?

9 MS. ATKINS: No.

10 MS LEE: No.

11 THE COURT: All right. Mr. Doggart, you know this is
12 uncomfortable, I'm sure, for your daughters, because they've
13 become the parent—all right?—in terms of supervision. You
14 can't have any guns. That's on -- you know, that's on you.

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: No alcohol. Zero. None. So if there's
17 any in the house, I expect your daughters to get it out of
18 there for you before Friday.

19 MS. ATKINS: Okay.

20 THE COURT: You can't unlawfully possess or use any
21 kind of narcotic drug or controlled substance unless it's
22 prescribed to you. Now, you take some pain medications.
23 You'll be able to continue taking them, only as prescribed.
24 The probation office will be responsible for making sure that
25 you are taking your medicine as prescribed.

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: That means you can't take somebody else's
3 prescription.

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: You'll be subjected to testing. You'll
6 have to participate in a program of substance abuse and
7 treatment as well. I believe that can be done in conjunction
8 with your mental health treatment. And because of various
9 releases that are needed and -- and information, that, again,
10 suggests to me that you may be seeing a new mental health
11 person that the probation office recommends, as opposed to an
12 old person, but -- and by "old," I mean your old doctors. You
13 can see both if you want to, if they'll do that.

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: But you're going to have to do what
16 Probation says in terms of your mental health treatment. Also,
17 you're going to have electronic monitoring and home detention.
18 Now, what that means is, you're restricted to your residence at
19 all times except for approved activities. And the way this is
20 worded, I guess somebody could make an argument that they
21 thought it was approved because it's listed here. So I want to
22 be crystal clear with you. There are certain things that the
23 probation office will approve; for instance, medical or
24 substance abuse or mental health treatment, but you have to get
25 that preapproved, too. Attorney's visits, they have to know

1 before you go that you're going. And you might be approved for
2 religious services—I've listed it here—but only if you can
3 demonstrate that that's something you were already doing
4 regularly. So it's not an excuse to start going places. It's
5 basically home confinement, except for I will allow you to
6 visit your doctors and your lawyers as long as the probation
7 office gives you preapproval. So that's location monitoring.
8 You're going to have to pay for -- you're going to have to have
9 the phone line in place in order for it to take place. You'll
10 have to pay for that as well. And you won't be released until
11 that monitoring is set up.

12 You'll have to report if you have any contact with
13 law enforcement. That would include any arrests, questioning,
14 or traffic stop, and even if you don't get a ticket. Now,
15 that should be pretty easy for you, because you should either
16 be at home or in a straight line driving to your doctor's
17 visit or your lawyer—all right?—or on the way back.

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: In other words, there shouldn't be a lot
20 of opportunity for you to actually have contact with law
21 enforcement. But if -- on the off chance that you do, you have
22 to report that immediately.

23 You cannot enter into any agreement to act as an
24 informer or a special agent for the government without the
25 express permission of the Court. Your lawyers and the

1 government's lawyers are very familiar with how that process
2 works, and basically you can't try to help yourself by helping
3 the government unless you have the permission of the Court to
4 do that. You'll have to truthfully answer the inquiries of
5 the probation officer and follow their directions. And I've
6 already said this, but you'll have no Internet access by any
7 device.

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Now, do you understand all of these
10 conditions?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: If you violate any of the conditions of
13 release, then that can result in the immediate issuance of a
14 warrant for your arrest, revocation of your release, an order
15 of detention, forfeiture of your -- of the bond, prosecution
16 for contempt of court. Of course your daughters could be
17 prosecuted for contempt of court as well if they don't fulfill
18 their custodial duties.

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: So you're not just jeopardizing yourself
21 if you do breach these conditions. If while you're on release
22 you commit a federal felony, the offense punishment is very
23 severe. If you commit a federal felony while you're on
24 release, that would stack on top of any sentence you get, up to
25 ten years. And if you commit a federal misdemeanor, that will

1 stack up to one year.

2 It's also a crime for you to obstruct a criminal
3 investigation in any way. So any attempt by you to tamper
4 with a witness, a victim, or informant, in addition to
5 violating the conditions of your release, could result in a
6 250,000-dollar fine and 10 years in jail. And then if after
7 your release you don't appear or you don't surrender for any
8 sentence, same punishment.

9 The paperwork I've got here has much more detail
10 about the potential punishments or sanctions, penalties, if
11 you don't comply. So you'll want to go over that with your
12 lawyer. It also has more information about the conditions
13 that you can read about in more detail.

14 Ms. Adkins and Ms. Lee, do you understand the
15 conditions that are being imposed?

16 MS. ATKINS: Yes.

17 MS LEE: Yes, ma'am.

18 THE COURT: All right. You'll see on this first page
19 where you have to fill in your address, your phone numbers, and
20 you should both sign there. There is only one line right now,
21 but you just both sign and date it.

22 MS LEE: (Moving head up and down.)

23 THE COURT: Assuming that they are willing to do that
24 still, after reading this and understanding the sanctions if
25 they fail to comply, you can sign as well, which you'll need to

1 sign where it's marked here and on the bond. You'll see that
2 your signature place is marked. And then assuming that all of
3 that's done, I'm going to order you released after processing,
4 upon notice by the probation office that monitoring's in place.

5 (Brief pause.)

6 THE COURT: That way you don't have to come back
7 here. What will happen is, Mr. Hoss will let the probation
8 office know; the probation -- when the land line's available.
9 Once the land line's available, the probation office can
10 schedule installation of the equipment, and then you can be
11 released. It takes time. It's not something that's going to
12 happen in a matter of hours. And I don't know -- you know,
13 depending on what happens on up the chain, who knows what will
14 happen, but my intent is that once the probation office
15 confirms that the monitoring is in place, that the marshals
16 will be able to provide appropriate word to -- I think you're
17 at Silverdale maybe? Maybe not.

18 MR. HOSS: Jail.

19 THE COURT: Okay. Anyhow, so you be released.

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Here's the paperwork for you to review.

22 (Brief pause.)

23 MR. HOSS: May we sit down, Your Honor?

24 THE COURT: Yes. And Ms. Adkins and Ms. Lee, you'll
25 have to go over there with Mr. Hoss. Stay over on this side,

1 by the chairs, and he can show you the paperwork and where you
2 should sign it.

3 (Brief pause.)

4 THE COURT: Do you need to make a correction for the
5 record?

6 MR. HOSS: I do. It's Christy Atkins, A-T as in Tom,
7 K-I-N-S. And then Terri, T-E-R-R-I, not Y, Lee. So I was oh
8 for two, Your Honor. Did the Court want me to put each of
9 their addresses right underneath their name?

10 THE COURT: Just the state and the city and their
11 phone numbers.

12 (Off-the-record discussion.)

13 THE COURT: Mr. Doggart, stand back up, please.

14 THE DEFENDANT: Okay. (Complying.)

15 THE COURT: Is this your signature on the paperwork?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Does that mean that you understood the
18 conditions, you understand the consequences, and you're giving
19 your word to the Court that you're going to comply by them?

20 THE DEFENDANT: I am, Your Honor.

21 THE COURT: Now, where I see people mess up on these
22 types of conditions are twofold; one, they think they're smart
23 enough to outfox the probation office and use the Internet.
24 The other type is where they don't really understand what that
25 means. It means you can't pay your bills via the Internet if

1 that's what you've been doing, you can't Facebook, you can't --
2 you can't read e-mail. I mean, you have to stay off the
3 computer. So I don't want you to be tripped up on what it
4 means. To the extent you think you can outfox the probation
5 office on it, you know, many have tried.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: I don't know how many have failed, but a
8 lot of them, because I see them.

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: So do you understand what that
11 restriction is and how -- how broad it is?

12 THE DEFENDANT: I do, Your Honor. I will stay off
13 the Internet.

14 THE COURT: All right. I'm going to get you a copy
15 of this paperwork, as well as your daughters, so they'll know
16 what's required. And do you understand that, you know, come
17 Friday you may or may not be released. It depends, first, on
18 whether this monitoring's in place and, second, whether or not
19 Mr. Piper has obtained any order that might prevent that.

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: So that'll be in flux, at least from what
22 I can tell right now.

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Is there anything else we
25 need to address on the detention issue before we move on to the

1 remaining issue?

2 MR. HOSS: May the daughters have a copy of that as
3 well, Your Honor?

4 THE COURT: Yes. They'll be getting a copy of it.
5 They're bound by it. Oh, and you corrected the spelling of
6 their names on the record. Is that right?

7 MR. HOSS: I did.

8 THE COURT: You can sit back down, Mr. Doggart, on
9 this.

10 THE DEFENDANT: Thank you.

11 THE COURT: Anything else on the remaining issue?

12 MS. ATKINS: No.

13 MS LEE: No.

14 THE COURT: Given that this is a public hearing, I
15 think it would be best to proceed by way of written submissions
16 for the reasons that this case should remain sealed. I
17 understand that the defendant doesn't object and isn't taking a
18 position on it, so I don't need any brief from them, I don't
19 think.

20 MR. PIPER: Judge, we'll move to unseal, then.

21 THE COURT: It's up to you.

22 MR. PIPER: No. That's fine.

23 THE COURT: The government's moved to unseal. Do you
24 have any objection to that?

25 MR. HOSS: No position, Your Honor.

1 THE COURT: All right. Then the file will be
2 unsealed.

3 Anything further?

4 MR. PIPER: No, Your Honor.

5 MR. HOSS: No.

6 THE COURT: All right. That will conclude this
7 matter.

8 END OF PROCEEDINGS
9
10

11 I, Elizabeth B. Coffey, do hereby certify that I
12 reported in machine shorthand the proceedings in the
13 above-styled cause, and that this transcript is an accurate
14 record of said proceedings.
15
16

17 s/Elizabeth B. Coffey
18 Elizabeth B. Coffey,
19 Official Court Reporter
20
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22
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